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HOUSE BILL 628

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Justine Fox-Young

AN ACT

RELATING TO ELECTIONS; REQUIRING IN-PERSON VOTERS TO PRESENT PHOTO IDENTIFICATION BEFORE VOTING; REQUIRING VOTERS WHO VOTE BY MAIL-IN ABSENTEE BALLOTS TO SEND IDENTIFICATION WITH THE BALLOT; REQUIRING THAT PROVISIONAL BALLOTS BE COUNTED ONLY IF CAST IN THE PRECINCT IN WHICH THE VOTER IS REGISTERED; PROVIDING FOR SUBMITTAL OF IDENTIFICATION AFTER THE POLLS CLOSE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] VOTER PHOTO IDENTIFICATION CARDS.--

A. The county clerk shall issue without charge a voter photo identification card to a person who:

- (1) presents any two of the following

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1 identification documents containing the name and address of the
2 person:

- 3 (a) a state-issued identification card;
- 4 (b) a social security card;
- 5 (c) a student identification card;
- 6 (d) a library card;
- 7 (e) an insurance card;
- 8 (f) a selective service card;
- 9 (g) a union card;
- 10 (h) a professional association card;
- 11 (i) a utility bill;
- 12 (j) a bank statement; or
- 13 (k) a government check or paycheck; or

14 (2) if unable to present the required
15 documents to the clerk, affirms under penalty of perjury in an
16 affidavit that the person is registered to vote and the county
17 clerk confirms that the person is registered to vote.

18 B. The voter photo identification card shall state
19 on its face that it is not valid identification for other than
20 the purpose of voting in a state election and shall not be
21 valid if the voter is subsequently purged from the voter
22 rolls."

23 Section 2. A new section of the Election Code is enacted
24 to read:

25 "[NEW MATERIAL] REQUIRED PHOTO IDENTIFICATION--RELIGIOUS

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1 OBJECTION--PROVISIONAL BALLOTS.--If a voter who cast a
2 provisional ballot because the voter did not provide the
3 required voter identification affirms under penalty of perjury
4 in an affidavit within two days following the election that the
5 voter has a religious objection to being photographed, the
6 voter shall not be required to submit photo identification and
7 the voter's ballot shall be counted if it is otherwise valid
8 and the voter provides the election official with the voter's
9 unique identifier."

10 Section 3. Section 1-1-24 NMSA 1978 (being Laws 2005,
11 Chapter 270, Section 6) is amended to read:

12 "1-1-24. REQUIRED VOTER IDENTIFICATION.--As used in the
13 Election Code, "required voter identification" means ~~[any of~~
14 ~~the following forms of identification as chosen by the voter:~~

15 ~~A. a physical form of identification, which may be: (1):~~

16 A. an original or copy of a current and valid photo
17 identification ~~[with or without an address, which address is~~
18 ~~not required to match the voter's certificate of registration~~
19 ~~or a voter identification card; or~~

20 ~~(2) an original or copy of a utility bill,~~
21 ~~bank statement, government check, paycheck, student~~
22 ~~identification card or other government document, including~~
23 ~~identification issued by an Indian nation, tribe or pueblo,~~
24 ~~that shows the name and address of the person, the address of~~
25 ~~which is not required to match the voter's certificate of~~

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1 registration; or

2 ~~B. a verbal or written statement by the voter of~~
3 ~~the voter's name, year of birth and unique identifier;~~
4 ~~provided, however, that the statement of the voter's name need~~
5 ~~not contain the voter's middle initial or suffix] that contains~~
6 the voter's name and photograph and that may be a card issued
7 by a government agency, a driver's license, a student
8 identification card, a commercial transaction card, such as a
9 credit or debit card, an insurance card, a union card, a
10 professional association card or a voter photo identification
11 card issued by the county clerk or secretary of state; or

12 B. in the case of an absentee voter who votes by
13 mail, either a copy of the photo identification described in
14 Subsection A of this section or the voter's unique identifier;
15 provided that if the voter is a new registrant who registered
16 by mail and did not submit a current and valid photo
17 identification with the registration application, the voter's
18 unique identifier is not an acceptable form of identification."

19 Section 4. Section 1-4-5.1 NMSA 1978 (being Laws 1993,
20 Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,
21 as amended) is amended to read:

22 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

23 A. A qualified elector may apply for registration
24 by mail, in the office of the secretary of state or county
25 clerk or with a registration agent or officer.

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1 B. A person may request certificate of registration
2 forms [~~may be requested~~] from the secretary of state or any
3 county clerk in person, by telephone or by mail for [~~oneself~~]
4 that person or for [~~others~~] other persons.

5 C. Except as provided in Subsection D of this
6 section, a qualified elector who wishes to register to vote
7 shall fill out completely and sign the certificate of
8 registration. The qualified elector may seek the assistance of
9 any person in completing the certificate of registration.

10 D. A qualified elector who has filed for an order
11 of protection pursuant to the provisions of the Family Violence
12 Protection Act and who presents a copy of that order from a
13 state or tribal court to the registration officer shall not be
14 required to provide address information on the certificate of
15 registration.

16 E. Completed certificates of registration may be
17 mailed or presented in person by the registrant or any other
18 person to the secretary of state or presented in person by the
19 registrant or any other person to the county clerk of the
20 county in which the registrant resides.

21 F. If the registrant wishes to vote in the next
22 election, the completed and signed certificate of registration
23 shall be delivered or mailed and postmarked at least twenty-
24 eight days before the election.

25 G. Upon receipt of a certificate of registration,

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1 the secretary of state shall send the certificate to the county
2 clerk in the county where the qualified elector resides.

3 H. Only when the certificate of registration is
4 properly filled out, signed by the qualified elector and
5 accepted for filing by the county clerk as evidenced by the
6 county clerk's signature or stamp and the date of acceptance
7 thereon and when notice has been received by the registrant
8 shall it constitute an official public record of the
9 registration of the qualified elector.

10 I. The secretary of state shall prescribe the form
11 of the certificate of registration, which form shall be a
12 postpaid mail-in format and shall be printed in Spanish and
13 English. The certificate of registration form shall be clear
14 and understandable to the average person and shall include
15 brief but sufficient instructions to enable the qualified
16 elector to complete the form without assistance. The form
17 shall also include:

18 (1) the question "Are you a citizen of the
19 United States of America?" and boxes for the applicant to check
20 to indicate whether the applicant is or is not a citizen;

21 (2) the question "Will you be at least
22 eighteen years of age on or before election day?" and boxes for
23 the applicant to check to indicate whether the applicant will
24 be eighteen years of age or older on election day;

25 (3) the statement "If you checked 'no' in

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1 response to either of these questions, do not complete this
2 form.";

3 (4) a statement informing the applicant that
4 [~~(a) if the form is submitted by mail by the applicant and the~~
5 ~~applicant is registering for the first time in New Mexico, the~~
6 ~~applicant must submit with the form a copy of: 1) a current~~
7 ~~and valid photo identification or voter identification card; or~~
8 ~~2) a utility bill, bank statement, government check, paycheck,~~
9 ~~student identification card or other government document,~~
10 ~~including identification issued by an Indian nation, tribe or~~
11 ~~pueblo, that shows the name and address of the applicant; and~~
12 ~~(b) if] the applicant [does not submit the required~~
13 ~~identification, he] will be required to [do so] present the~~
14 required voter identification when voting in person or
15 absentee; and

16 (5) a statement requiring the applicant to
17 swear or affirm that the information supplied by the applicant
18 is true."

19 Section 5. Section 1-6-4 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 130, as amended) is amended to read:

21 "1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED
22 ELECTOR--OVERSEAS VOTER.--

23 A. Application by a federal qualified elector or an
24 overseas voter for an absentee ballot shall be made on the
25 official postcard form prescribed or authorized by the federal

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1 government to the county clerk of the county of ~~[his]~~ the
2 applicant's residence. The form shall allow the applicant to
3 receive an absentee ballot for all elections within an election
4 cycle.

5 B. Application by a voter for an absentee ballot
6 shall be made only on a form prescribed by the secretary of
7 state in accordance with federal law. The form shall identify
8 the applicant and contain information to establish ~~[his]~~ the
9 applicant's qualification for issuance of an absentee ballot
10 under the Absent Voter Act; provided that on the application
11 form for a general election ballot there shall be no box, space
12 or place provided for designation of the voter's political
13 party affiliation.

14 C. Each application for an absentee ballot shall be
15 subscribed by the applicant and shall require the applicant's
16 printed name, year of birth and unique identifier to be
17 supplied by the applicant ~~[which shall constitute the required~~
18 ~~form of identification, except for new registrants that have~~
19 ~~registered by mail and at that time did not provide acceptable~~
20 ~~identification]~~.

21 D. An application for an absentee ballot by a
22 federal qualified elector or an overseas voter shall be
23 accepted at any time preceding the general election."

24 Section 6. Section 1-6-5 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 131, as amended) is amended to read:

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1 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

2 A. The county clerk shall mark each completed
3 absentee ballot application with the date and time of receipt
4 in the clerk's office and enter the required information in the
5 absentee ballot register. The county clerk shall then
6 determine if the applicant is a voter, an absent uniformed
7 services voter or an overseas voter.

8 B. If the applicant does not have a valid
9 certificate of registration on file in the county and is not a
10 federal qualified elector or if the applicant states that the
11 applicant is a federal qualified elector but the application
12 indicates the applicant is not a federal qualified elector, an
13 absentee ballot shall not be issued and the county clerk shall
14 mark the application "rejected" and file the application in a
15 separate file from those accepted.

16 C. The county clerk shall notify in writing each
17 applicant of the fact of acceptance or rejection of the
18 application and, if rejected, shall explain why the application
19 was rejected.

20 D. If the applicant has on file with the county a
21 valid certificate of registration that indicates that the
22 applicant is a voter who is a new registrant and who registered
23 by mail without submitting the required voter identification,
24 the county clerk shall notify the voter that the voter must
25 submit with the absentee ballot the required ~~[physical form of]~~

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1 voter identification. The county clerk shall note on the
2 absentee ballot register and signature roster that the
3 applicant's absentee ballot must be returned with the required
4 voter identification.

5 E. If the county clerk finds that the applicant is
6 a voter other than a federal qualified elector or overseas
7 voter, the county clerk shall mark the application "accepted"
8 and, beginning twenty-eight days before the election, deliver
9 an absentee ballot to the voter in the county clerk's office or
10 mail to the applicant an absentee ballot and the required
11 envelopes for use in returning the ballot. If the county clerk
12 finds that the applicant is a federal qualified elector or
13 overseas voter, the county clerk shall mark the application
14 "accepted" and, beginning forty-five days before the election,
15 mail to the applicant an absentee ballot and the required
16 envelopes for use in returning the ballot. Acceptance of an
17 application of a federal qualified elector constitutes
18 registration for the election in which the ballot is to be
19 cast. Acceptance of an application from an overseas voter who
20 is not an absent uniformed services voter constitutes a request
21 for changing information on the certificate of registration of
22 any such voter. An absent voter shall not be permitted to
23 change party affiliation during those periods when change of
24 party affiliation is prohibited by the Election Code. Upon
25 delivery of an absentee ballot to a voter in the county clerk's

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1 office or mailing of an absentee ballot to an applicant who is
2 a voter, an appropriate designation shall be made on the
3 signature line of the signature roster next to the name of the
4 voter who has been provided or mailed an absentee ballot.

5 F. If an application for an absentee ballot is
6 delivered in person to the county clerk and is accepted, the
7 county clerk shall provide the voter an absentee ballot and it
8 shall be marked by the applicant in a voting booth of a type
9 prescribed by the secretary of state, sealed in the proper
10 envelopes and otherwise properly executed and returned to the
11 county clerk or [~~his~~] the clerk's authorized representative
12 before the voter leaves the office of the county clerk. The
13 act of marking the absentee ballot in the office of the county
14 clerk shall be a convenience to the voter in the delivery of
15 the absentee ballot and does not make the office of the county
16 clerk a polling place subject to the requirements of a polling
17 place in the Election Code other than is provided in this
18 subsection. It is unlawful to solicit votes, display or
19 otherwise make accessible any posters, signs or other forms of
20 campaign literature whatsoever in the clerk's office or
21 alternate voting location. Absentee ballots may be marked in
22 person at the county clerk's office during the regular hours
23 and days of business beginning on the twenty-eighth day
24 preceding the election and from 10:00 a.m. to 6:00 p.m. on the
25 Saturday immediately prior to the date of the election. In

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1 marking the absentee ballot, the voter, pursuant to the
2 provisions of Section 1-12-15 NMSA 1978, may be assisted by one
3 person of the voter's choice.

4 G. Absentee ballots shall be airmailed or, if so
5 requested, electronically transmitted to applicants temporarily
6 domiciled inside or outside the continental limits of the
7 United States not later than on the Friday immediately prior to
8 the date of the election.

9 H. An absentee ballot shall not be delivered or
10 mailed by the county clerk to any person other than the
11 applicant for such ballot.

12 I. The secretary of state and each county clerk
13 shall make reasonable efforts to publicize and inform voters of
14 the times and locations for absentee voting; provided, however,
15 that notice is provided at least ten days before early voting
16 begins.

17 J. The secretary of state shall establish
18 procedures for the submittal, when required by federal law, of
19 required voter identification with mailed-in absentee ballots."

20 Section 7. Section 1-6-5.7 NMSA 1978 (being Laws 2005,
21 Chapter 270, Section 40) is amended to read:

22 "1-6-5.7. EARLY VOTING--USE OF ABSENTEE VOTING
23 PROCEDURES--ALTERNATE VOTING LOCATIONS.--

24 A. Commencing on the third Saturday prior to an
25 election, an early voter may vote in person on a voting system

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1 at an alternate voting location established by the county
2 clerk. In class A counties with more than two hundred thousand
3 registered voters, the county clerk shall establish not less
4 than twelve alternate voting locations as a convenience to the
5 voters. For class A counties with two hundred thousand
6 registered voters or fewer, the county clerk shall establish
7 not less than four alternate voting locations. In non-class A
8 counties with more than ten thousand registered voters, the
9 county clerk shall establish at least one alternate voting
10 location. In non-class A counties with ten thousand registered
11 voters or fewer, early voting shall be conducted in the office
12 of the county clerk or at such [~~alternative~~] alternate
13 locations as may be designated by the county clerk. Early
14 voting may be done at an alternate location from 12:00 p.m. to
15 8:00 p.m., Tuesday through Friday, and from 10:00 a.m. to 6:00
16 p.m., Saturday through the Saturday immediately prior to the
17 election.

18 B. When voting early, the voter shall provide the
19 required voter identification to the county clerk or the
20 clerk's authorized representative. If the voter does not
21 provide the required voter identification, the voter shall be
22 allowed to vote on a provisional ballot if the voter provides
23 the voter's date of birth and unique identifier and affirms
24 under penalty of perjury in an affidavit that the voter:

25 (1) is who the voter claims to be; and

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1 (2) is registered to vote in the precinct
2 where the voter is requesting to vote.

3 C. Provisional ballots issued pursuant to the
4 provisions of this section shall be counted only if:

5 (1) the voter presents to the county clerk
6 within two days following election day the required voter
7 identification;

8 (2) the voter did not vote elsewhere in that
9 election; and

10 (3) the voter was registered to vote in the
11 election.

12 D. If the voter provides the required
13 identification, the voter shall be allowed to vote after
14 subscribing an application to vote in accordance with secretary
15 of state rules. The county clerk or the clerk's authorized
16 representative shall make an appropriate designation on the
17 signature roster next to the voter's name indicating that the
18 voter has voted early."

19 Section 8. Section 1-6-8 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 134, as amended) is amended to read:

21 "1-6-8. ABSENTEE BALLOT ENVELOPES.--

22 A. The secretary of state shall prescribe the form
23 of, procure and distribute to each county clerk a supply of:

24 (1) official inner envelopes for use in
25 sealing the completed absentee ballot;

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1 (2) official mailing envelopes for use in
2 returning the official inner envelope to the county clerk;
3 provided the official mailing envelope for absentee ballots in
4 a general election shall contain no designation of party
5 affiliation;

6 (3) absentee ballot instructions, describing
7 proper methods for completion of the ballot and returning it;
8 and

9 (4) official transmittal envelopes for use by
10 the county clerk in mailing absentee ballot materials.

11 B. Official transmittal envelopes and official
12 mailing envelopes for transmission of absentee ballot materials
13 to and from the county clerk and federal qualified electors
14 shall be printed in red in the form prescribed by the federal
15 Uniformed and Overseas Citizens Absentee Voting Act. Official
16 transmittal envelopes and official mailing envelopes for
17 transmission of absentee ballot materials to and from the
18 county clerk and voters shall be printed in black in
19 substantially similar form. All official inner envelopes shall
20 be printed in black.

21 C. The reverse of each official mailing envelope
22 shall contain a form to be executed by the voter completing the
23 absentee ballot. The form shall identify the voter and shall
24 contain the following statement: "I will not vote in this
25 election other than by the enclosed ballot. I will not receive

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1 or offer any compensation or reward for giving or withholding
2 any vote."

3 D. The official mailing envelope shall contain a
4 space for the voter to record the voter's unique identifier,
5 year of birth and name and a window slot to hold the copy of
6 the required voter identification. The envelope shall have a
7 security flap to cover this information."

8 Section 9. Section 1-6-9 NMSA 1978 (being Laws 1969,
9 Chapter 240, Section 135, as amended) is amended to read:

10 "1-6-9. MANNER OF VOTING.--

11 A. A person voting pursuant to the Absent Voter Act
12 shall secretly mark the absentee ballot in the manner provided
13 in the Election Code for marking emergency paper ballots, place
14 it in the official inner envelope and securely seal the
15 envelope. The voter shall then place the official inner
16 envelope inside the official mailing envelope and securely seal
17 the envelope. The voter shall then complete the form on the
18 reverse of the official mailing envelope, which shall include
19 an affirmation by the voter under penalty of perjury that the
20 facts stated in the form are true and the voter's name, year of
21 birth and [~~unique identifier~~] required voter identification.

22 B. Federal qualified electors and overseas voters
23 shall either deliver or mail the official mailing envelope or
24 electronically transmit the absentee ballot to the county clerk
25 of their county of residence or deliver it to a person

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1 designated by federal authority to receive executed ballots for
2 transmission to the county clerk of the county of residence or
3 former residence as the case may be. Voters shall either
4 deliver or mail the official mailing envelope to the county
5 clerk of their county of residence."

6 Section 10. Section 1-6-14 NMSA 1978 (being Laws 1971,
7 Chapter 317, Section 11, as amended) is amended to read:

8 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
9 PRECINCT BOARDS.--

10 A. Before opening an official mailing envelope, the
11 presiding judge and the election judges shall determine that
12 the required information has been completed on the reverse side
13 of the official mailing envelope.

14 B. If the voter's signature is missing, the
15 presiding judge shall write "Rejected" on the front of the
16 official mailing envelope. The election clerks shall enter the
17 voter's name in the signature rosters and shall write the
18 notation "Rejected--Missing Signature" in the "Notations"
19 column of the signature rosters. The presiding judge shall
20 place the official mailing envelope unopened in an envelope
21 provided for rejected ballots, seal the envelope and write the
22 voter's name on the front of the envelope and deposit it in the
23 locked ballot box.

24 C. If the required voter identification is not
25 under the flap or in the window pocket under the flap on the

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1 official mailing envelope, the presiding judge shall place the
2 official mailing envelope unopened in an envelope provided for
3 ballots lacking the required voter identification. A list of
4 all voters who mailed in absentee ballots without the required
5 voter identification shall be posted by the county clerk in the
6 county clerk's office on the first day after election day.
7 Absentee ballots received by the county clerk without the
8 required voter identification shall not be counted unless the
9 voter provides the county clerk with the required voter
10 identification within three days after posting of the list and
11 the county clerk determines that the voter did not vote
12 elsewhere in that election.

13 ~~[G-]~~ D. A lawfully appointed challenger may examine
14 the official mailing envelope and may challenge the ballot of
15 any absent voter for the following reasons:

16 (1) the official mailing envelope has been
17 opened prior to being received by the absent voter precinct
18 board; or

19 (2) the person offering to vote is not a
20 federal voter, federal qualified elector, overseas voter or
21 voter as provided in the Election Code.

22 Upon the challenge of an absentee ballot, the election
23 judges and the presiding election judge shall follow the same
24 procedure as when ballots are challenged when a person attempts
25 to vote in person. If a challenge is upheld, the official

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1 mailing envelope shall not be opened but shall be placed in an
2 envelope provided for challenged ballots. The same procedure
3 shall be followed in canvassing and determining the validity of
4 challenged absentee ballots as with other challenged ballots.

5 ~~[D.]~~ E. If the official mailing envelope has been
6 properly subscribed and the voter has not been challenged:

7 (1) the election clerks shall enter the absent
8 voter's name and residence address as shown on the official
9 mailing envelope in the signature rosters and shall mark the
10 notation "AB" opposite the voter's name in the "Notations"
11 column of the signature rosters; and

12 (2) only between 8:00 a.m. and 5:00 p.m. on
13 the five days preceding election day, including Saturday and
14 Sunday, and beginning at 7:00 a.m. on election day, under the
15 personal supervision of the presiding election judge, shall the
16 election judges open the official mailing envelope and the
17 official inner envelope and insert the enclosed ballot into an
18 electronic voting machine to be registered and retained until
19 votes are counted and canvassed following the closing of the
20 polls on election night.

21 ~~[E.]~~ F. It is unlawful for a person to disclose the
22 results of a count and tally or the registration on a voting
23 machine of absentee ballots prior to the closing of the polls.

24 ~~[F.]~~ G. Absentee ballots shall be counted and
25 tallied on an electronic voting machine as provided in the

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1 Election Code.

2 [~~G.~~] H. Absent voter precinct polls shall close at
3 the time prescribed by the Election Code for other polling
4 places, and the results of the election shall be certified as
5 prescribed by the secretary of state.

6 [~~H.~~] I. If an absentee ballot does not contain the
7 identification required pursuant to Subsection D of Section
8 1-6-5 NMSA 1978, it shall be handled as a provisional paper
9 ballot in accordance with the Election Code."

10 Section 11. Section 1-12-7.1 NMSA 1978 (being Laws 1969,
11 Chapter 240, Section 112, as amended) is amended to read:

12 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--USE DURING
13 ELECTION.--

14 A. Each precinct board using voter lists shall post
15 securely at or near the entrance of the polling place one copy
16 of the precinct voter list for use of the voters prior to
17 voting. The posted copy shall not contain a listing of voter
18 social security numbers.

19 B. The presiding judge of the precinct board shall
20 assign one judge of the board to be in charge of one copy of
21 the precinct voter list, which shall be used to confirm the
22 registration and voting of each person offering to vote.

23 C. The presiding judge of the precinct board shall
24 assign one election clerk to be in charge of the signature
25 roster.

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1 D. The judge assigned to the precinct voter list
2 used for confirmation of registration and voting shall
3 determine that each person offering to vote is registered and,
4 in the case of a primary election, that the voter is registered
5 in a party designated on the primary election ballot. If the
6 person's registration is confirmed by the presence of the
7 person's name on the precinct voter list and the voter provides
8 the required voter identification, the judge shall announce to
9 the election clerks the list number and the name of the voter
10 as shown on the precinct voter list. If the voter does not
11 provide the required voter identification, the voter shall be
12 allowed to vote on a provisional ballot in accordance with the
13 provisions of Section 1-12-8 NMSA 1978 and shall provide the
14 required voter identification to the county clerk's office
15 [~~before the county canvass begins~~] within three days of the
16 closing of the polls, or to the precinct board before the polls
17 close, or the voter's provisional ballot shall not be
18 qualified. If the required voter identification is provided,
19 the voter's provisional ballot shall be qualified and the voter
20 shall not vote on any other type of ballot.

21 E. The election clerk shall locate that list number
22 and name on the signature roster and shall require the voter to
23 sign the voter's usual signature or, if unable to write, to
24 make the voter's mark opposite the voter's printed name. If
25 the voter makes the voter's mark, it shall be witnessed by one

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1 of the judges of the precinct board. [~~If the signature roster~~
2 ~~indicates that the voter is required to present a physical form~~
3 ~~of identification before voting, the election judge shall ask~~
4 ~~the voter for the required physical form of identification. If~~
5 ~~the voter does not provide the required identification, the~~
6 ~~voter shall be allowed to vote on a provisional paper ballot;~~
7 ~~provided, however, that if the voter brings the required~~
8 ~~physical form of identification to the polling place after~~
9 ~~casting a provisional ballot, that ballot shall be qualified~~
10 ~~and the voter shall not vote on any other type of ballot.]~~

11 F. The election judge shall follow the procedures
12 provided for in Sections 1-12-7.2 and 1-12-8 NMSA 1978 if a
13 person whose name does not appear on the signature roster
14 requests to vote or a person is required to vote on a
15 provisional paper ballot.

16 G. A voter shall not be permitted to vote until the
17 voter has properly signed the voter's usual signature or made
18 the voter's mark in the signature roster.

19 H. After the poll is closed, the election clerk in
20 charge of a signature roster shall draw a single horizontal
21 line in ink through each signature space in the signature
22 roster where no signature or mark appears."

23 Section 12. Section 1-12-8 NMSA 1978 (being Laws 1969,
24 Chapter 240, Section 247, as amended) is amended to read:

25 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

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underscored material = new
[bracketed material] = delete

1 A. A person shall be permitted to vote on a
2 provisional paper ballot even though the person's original
3 certificate of registration cannot be found in the county
4 register or even if the person's name does not appear on the
5 signature roster, provided:

6 (1) the person's residence is within the
7 boundaries of the [~~county~~] precinct in which the person offers
8 to vote;

9 (2) the person's name is not on the list of
10 persons submitting absentee ballots; and

11 (3) the person executes a statement swearing
12 or affirming to the best of the person's knowledge that the
13 person is a qualified elector, is currently registered and
14 eligible to vote in that [~~county~~] precinct and has not cast a
15 ballot or voted in that election.

16 B. A voter shall vote on a provisional paper ballot
17 if the voter:

18 (1) has not previously voted in a general
19 election in New Mexico or has been purged from the voter list;

20 (2) registered to vote by mail;

21 (3) did not submit the [~~physical form of the~~]
22 required voter identification with the certificate of
23 registration form; and

24 (4) does not present to the election judge [~~a~~
25 ~~physical form of~~] the required voter identification.

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underscored material = new
[bracketed material] = delete

1 C. A voter shall vote on a provisional ballot in
2 accordance with the provisions of Paragraph (3) of Subsection A
3 of this section and Section 1-12-7.1 NMSA 1978 if the voter
4 does not provide the required voter identification to the
5 election judge.

6 D. An election judge shall have the voter sign the
7 signature roster and issue the voter a provisional paper
8 ballot, an outer envelope and an official inner envelope. The
9 voter shall vote on the provisional paper ballot in secrecy and
10 when done, place the ballot in the official inner envelope and
11 place the official inner envelope in the outer envelope and
12 return it to the precinct officer. The election judge shall
13 ensure that the required information is completed on the outer
14 envelope, have the voter sign it in the appropriate place and
15 place it in an envelope designated for provisional paper
16 ballots.

17 E. Knowingly executing a false statement
18 constitutes perjury as provided in the Criminal Code of this
19 state, and voting on the basis of such falsely executed
20 statement constitutes fraudulent voting."

21 Section 13. Section 1-12-10 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 249, as amended) is amended to read:

23 "1-12-10. CONDUCT OF ELECTION--VOTER'S NAME, ADDRESS,
24 SIGNATURE.--

25 A. When a voter [~~presents himself~~] offers to vote

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underscored material = new
~~[bracketed material]~~ = delete

1 at the polls [~~to vote, he~~], the voter shall announce [~~his~~] the
2 voter's name and address in an audible tone of voice. When an
3 election judge finds the voter's name in the signature roster,
4 [~~he~~] the election judge shall in like manner repeat the name of
5 the voter. The election judge shall then ask the voter to
6 provide the required voter identification. The voter shall
7 then sign [~~his~~] the voter's name or make [~~his~~] the voter's mark
8 on the signature line in the copy of the signature roster to be
9 returned to the county clerk. Upon the voter's name or mark
10 being written in the signature roster, a challenge may be
11 interposed as provided in the Election Code.

12 B. If a voter fails to provide the required voter
13 identification, the voter shall be allowed to vote on a
14 provisional ballot in accordance with the provisions of
15 Sections 1-12-7.1 and 1-12-8 NMSA 1978."

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